

REMARKS

Claims 43-49 are pending in the instant application. Applicant is grateful for the allowance of claims 46-49 but respectfully disagrees with the examiner's rejections of claims 43-45. Those rejections include a first rejection of claims 43-45 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,237,586 to Bottomley (the '586 patent), a second rejection of the same claims under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,363,105 to Sourour (the '105 patent), and a third rejection of the same claims under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,768,306 to Sawahashi (the '306 patent).

As the examiner realizes, an anticipation rejection under 102 is valid only where the cited reference teaches every limitation of the rejected claim. That is, every element of the claimed invention must be identically shown in the cited reference and must be arranged as in the claim(s) being rejected. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (1990). Applicant has reviewed each allegedly anticipating reference cited by the examiner and believes that none of them teaches or suggests all of the limitations of claim 43. Brief arguments supporting that assertion by the applicant appear below and the examiner is respectfully requested to reconsider the rejections in light of these arguments.

First, the '586 patent teaches a "modified RAKE receiver, referred to as a 'WRAKE' receiver" that is "particularly adaptable to a subtractive CDMA system." The examiner refers to Figs. 1 and 4 of the '586 patent and cites to col. 4, line 19 to col. 5, line 40 of the written description to support the assertion that the '586 patent anticipates claim 43 of the instant application. Respectfully, the examiner makes no analysis of the

'586 patent; he simply provides a verbatim copy of the instant application's claim 43 in conjunction with the conclusory statement that the '586 patent discloses the claimed limitations. In so doing, the examiner utterly fails to account for the limitations appearing in claim 43, which require the selective processing of stored data samples by combining them with chip values.

For example, at page 12, lines 3+, the instant application describes one embodiment of the claimed invention, wherein the modification of sub-chip stored data samples is accomplished by combining them with their corresponding chip values to produce modified data samples for use in the despreading operations. The '586 patent does not describe such operations and the examiner offers no explanation of how the cited passages of the '586 patent provide these teachings. Thus, the examiner has failed to establish *prima facie* grounds that claim 43 is anticipated by the '586 patent, and the rejection must be withdrawn.

The examiner's use of the '105 patent does not appear to be based on a considered analysis of the '105 patent's teachings, but rather represents the simple approach of copying the applicant's claim language from claim 43 in combination with offering the conclusory statement that the '105 patent teaches such limitations. The cited portions of the '105 patent do not teach the limitations of claim 43. For example, the examiner refers to summer 813 from Fig. 8 of the '105 patent as disclosing the operation of combining data samples with chip values. In direct contrast, the '105 patent discloses that summer 813 provides a summing function for queued data samples and thus does not perform the claimed combining of chip values and data

*See 145  
Claim*

samples. Thus, the examiner's rejection of claim 43 as being anticipated by the '105 patent fails as a matter of law and must be withdrawn.

Finally, the examiner's rejection of claim 43 as being anticipated by the '306 patent fails as a matter of law for reasons similar to those given above. Specifically, the examiner again does no more than copy the applicant's claim language and offer the conclusory statement that the '306 patent teaches those limitations. As before, the examiner offers no underlying analysis of the teachings of the '306 patent and makes no effort to relate its disclosed operations to those taught by claim 43. The cited passages of the '306 patent do not teach the limitations of claim 43, which limitations result in the generation of despread values, but rather simply teach a faster means of detecting signal synchronization via correlation detection wherein received signal samples are multiplied by a spreading code and the multiplied samples are accumulated and compared to a threshold detector. Thus, the '306 patent does not teach obtaining despread values, much less teach obtaining despread values according to the limitations set forth in claim 43. As such, the rejection of claim 43 as being anticipated by the '306 patent fails as a matter of law and must be withdrawn.

For the reasons stated above, Applicant believes that the instant application stands in condition for immediate allowance and, as such, respectfully requests the examiner to issue a Notice of Allowance. If the examiner has any questions regarding this response or the instant application in general, he is encouraged to call the undersigned agent.

Respectfully submitted,

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